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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,447	08/19/2003	Jerome A. Cohen	6842-0001-1	4405

7590 03/02/2006  
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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/643,447	COHEN, JEROME A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chapman E. Jeanette	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 14-17 is/are allowed.
- 6) ☒ Claim(s) 11-13 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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Claim 11 is objected to because of the following informality: On line 5 of claim 11, the word "on" should be "in" in order for the claim language to be clear.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-13, and 18 rejected under 35 U.S.C. 102(e) as being anticipated by Wheeler (6637173).

Wheeler discloses a kit for constructing a wall comprising:

- A container 16/18/42/44
- A plurality of connector plates 12 pairs located in the container
- A plurality of spacer plates, alternating plates 12, located in the container
- At least four fasteners 36/40 located in the container for coupling the connector and spacer plates to each other
- A plurality of pairs elongated structural straps 38
- At least one of the connector plates is an end plate

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paradis '984.

Paradis discloses a system for making curved walls. The system comprises:

- A plurality of connector plates 16 each including retaining means for receiving an end of a structural member 12;
- A plurality of spacer plates 16; see annotations on patent copy;
- The connector plates are rotatably coupled to one another by the spacer plates;
- To form a wall a pair of connector plates is coupled via a retaining means 22/42/40, one to each pair of opposing ends of a structural member; the retaining means 22 includes a pocket 16/22, column 4, lines 1-30, defined in part by upstanding walls; said pocket is configured to receive and retain complementary shaped structural members
- The connector plates rotatably movable relative to the spacer plates thereby allowing the structural members 12 to be oriented relative to one another so as to form a surface having a desired contour capable of accommodating a wall forming member between the structural members;

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- At least two spacer plates are interposed between successive connector plates;
- Each spacer plates are rotatably coupled to one of said connector plates and slidably connected to one another, by 40/42, so that the distance between successive connector plates, as well as the orientation of successive connector plates relative to one another can be changed;
- A pair of structural straps each extending between and engaging an outer surface defined by the connector plates 16, figures 3 and 7; one of the straps being positioned adjacent to and extending approx. perpendicular to one distal end defined by said structural members and the other strap being positioned to and adjacent to and extending approx. perpendicular to a generally opposing distal end defined by the structural members;
- At least a portion of the side wall 22 define apertures 54 for receiving a fastener there through into the structural member; column 5, lines 1-25; there are at least four fasteners; see figure 6

The elements of Paradis are capable of being placed in a container to be conveniently packaged for sale; one of ordinary skill in the art would have appreciated packaging the products in any convenient method to enable the idea to be conveniently sold and marketed; Kits are well known in the construction industry and the base reference shows the elements together as a unitary body and highly probable to be packaged together. See figure 4.

The last connector plate on each opposite end has been considered as the end plates.

Claims 1-10 and 14-17 are allowable of the prior art of record.

***Response to Arguments***

Applicant filed no arguments with respect to claims 11-13 and 18.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeanette Chapman  
Primary Examiner

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